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In re Application of	DECISION ON
GRIEBEL et al	:
PCT No.: PCT/JP2003/13848	:
Application No.: 10/533,081	:
Int. Filing Date: 29 October 2003	PAPERS FILED
Priority Date: 29 October 2002	:
Attorney's Docket No.: 271529US0PCT	:
For: QUINOLINE DERIVATIVES AND...	:
COMPOSITIONS CONTAINING THE SAME	UNDER 37 CFR 1.42

This is a decision on the declaration filed 12 January 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 April 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, applicants did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 07 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 07 December 2005, applicants filed a declaration on 12 January 2006 signed by Naoko HIRAI as heiress of the inventor, Hisamaru HIRAI, now deceased.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Naoko HIRAI is the sole heir for the deceased inventor, Hisamaru HIRAI. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that she is the sole heir for the deceased inventor in order for the Office to accept the application under 37 CFR 1.42.

In addition, the declaration did not satisfy 37 CFR §1.497(b)(2) because it does not state the citizenship, residence, and mailing address of the deceased inventor as required.

Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is not accepted.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.


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